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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,575	12/29/2000	James Hermerding	042390.P9249	1629
8791	7590	12/13/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN			YANCHUS III, PAUL B	
12400 WILSHIRE BOULEVARD			ART UNIT	
SEVENTH FLOOR			PAPER NUMBER	
LOS ANGELES, CA 90025-1030			2116	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/752,575	<b>Applicant(s)</b> HERMERDING ET AL.	
	<b>Examiner</b> Paul B. Yanchus	<b>Art Unit</b> 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This final office action is in response to amendments filed on 9/29/05.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godfrey, US Patent no. 6,091,255, in view of Bealkowski et al., US Patent no. 6,378,027 [Bealkowski].

Regarding claim 1, Godfrey discloses a method of managing power in a computer system, comprising:

operating the computer system at a first CPU [existing task operating on processor with highest respective temperature, column 5, lines 57-60];

receiving a first signal generated by a thermal sensor within the first CPU [column 5, lines 48-51];

selecting a second CPU to receiver a workload of the first CPU based on the first signal [re-assign existing process to processor with lowest respective temperature, column 5, lines 57-60column 5, lines 57-60];

distributing the workload between the first CPU and the second CPU [column 5, lines 57-60]; and

Art Unit: 2116

resuming operation of the computer system at the first CPU and the second CPU [column 5, lines 57-60].

Godfrey does not disclose that the operating system controls the selecting a second CPU to receive a workload of the first CPU. Godfrey instead discloses that a control unit controls the selecting a second CPU to receive a workload of the first CPU. Bealkowski discloses an operating system which controls selecting of a first processor to operate a system and selecting of second processor to operate the system when the first processor is in an abnormal operating condition [column 4, lines 5-16 and 66-67 and column 5, lines 1-4]. It would have been obvious to one of ordinary skill in the art to modify the Godfrey method to enable the operating system, instead of a control unit, to control the selecting of a second CPU to receive a workload of the first CPU in order to simplify the system by eliminating the need for a separate control unit hardware to execute along with the processors.

Regarding claims 2 and 3, Godfrey further discloses determining the processor with lowest respective temperature. It would have been obvious to one ordinary skill in the art that the CPU processor with lowest respective temperature is the least recently used CPU.

Regarding claim 4, Godfrey further discloses that the method may be carried on a system with a three processor configuration [Figure 4].

Regarding claim 5, Godfrey discloses a computer system comprising:

a first central processing unit (CPU) [processor with highest respective temperature, column 5, lines 57-60]; and

a second CPU [processor with lowest respective temperature, column 5, lines 57-60],

Art Unit: 2116

wherein the operation of the computer system is transferred from the first CPU to the second CPU upon the first CPU reaching a predetermined power threshold [re-assign existing process to processor with lowest respective temperature from processor with highest respective temperature, column 5, lines 57-60column 5, lines 50-60].

Godfrey does not disclose that the operating system controls the selecting a second CPU to receive a workload of the first CPU. Godfrey instead discloses that a control unit controls the selecting a second CPU to receive a workload of the first CPU. Bealkowski discloses an operating system which controls selecting of a first processor to operate a system and selecting of second processor to operate the system when the first processor is in an abnormal operating condition [column 4, lines 5-16 and 66-67 and column 5, lines 1-4]. It would have been obvious to one of ordinary skill in the art to modify the Godfrey method to enable the operating system, instead of a control unit, to control the selecting of a second CPU to receive a workload of the first CPU in order to simplify the system by eliminating the need for a separate control unit hardware to execute along with the processors.

Regarding claim 6, Godfrey further discloses that the processors each include a thermal sensor [Figure 4].

Regarding claim 7, Godfrey further discloses that operation of the computer system is transferred from the first CPU to the second CPU upon the thermal sensor within the first CPU measuring the predetermined power threshold [re-assign existing process to processor with lowest respective temperature from processor with highest respective temperature, column 5, lines 57-60column 5, lines 50-60].

Art Unit: 2116

Regarding claims 10 and 11, Godfrey further discloses determining the processor with lowest respective temperature. It would have been obvious to one ordinary skill in the art that the CPU processor with lowest respective temperature is the least recently used CPU.

Claims 8, 9 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godfrey, US Patent no. 6,091,255 and Bealkowski et al., US Patent no. 6,378,027 [Bealkowski], in view of Applicant's Admitted Prior Art [AAPA].

Godfrey and Bealkowski, as described above, disclose a method and system for managing power in computer system. Godfrey and Bealkowski do not explicitly disclose a cooling system comprising a heat pipe, heat exchanger and a cooling fan. However, the AAPA states that a microprocessor cooling system comprising a heat pipe, heat exchanger and a cooling fan is well known in the art [page 2, lines 13-20]. Therefore the advantages of using the cooling system are well known in the art and it would have been obvious to one of ordinary skill in the art to incorporate the well known cooling system disclosed by the AAPA in the system taught by Godfrey and Bealkowski.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Art Unit: 2116

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul B. Yanchus whose telephone number is (571) 272-3678.

The examiner can normally be reached on Mon-Thurs 8:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Yanchus  
December 8, 2005

  
**LYNNE H. BROWNE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**